### PROPOSED AGREEMENT TO HOUSE FEDERAL CIVIL DETAINEES

#### **PROPOSAL**

The County of Orange is proposing to enter into an agreement with the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) to house detainees in Orange County jails on hold for immigration status determination. The agreement would generate additional revenue that will prevent the closure of jail facilities and will help avoid significant cuts to core services of the Orange County Sheriff's Department and Health Care Agency. Within the area defined by ICE as the Enforcement and Removal Operations (ERO) Los Angeles Field Office (LAFO), ICE has been unable to secure a sufficient number of beds for detainees in California, and transporting detainees to other states carries a significant cost. The proposal includes up to 838 beds of which 472 beds would be at the Theo Lacy Facility and 366 beds would be at the James A. Musick Facility. ICE has indicated that they may be interested in housing up to 1,400 detainees in the Orange County jail system in the future, so for the purpose of analyzing impacts to the environment, the scenario of housing 1,400 detainees has been analyzed.

### **BACKGROUND**

ICE and DHS' the Customs and Border Protection (CBP) agency are charged with ensuring enforcement of United States Federal Immigration Laws. Under the Immigration and Nationality Act and its amendments, aliens who are deemed to be present in the United States in violation of immigration laws and statutes are subject to removal. Inclusive of these laws are procedures that allow local jurisdictions, under agreement with ICE, to screen arrestees booked into local jails to verify their citizenship status (this is known as the "287g Program," named after the authorizing federal statute). In addition to detainees arrested and detained by ICE and CBP, local jurisdictions, through the 287g Program, conduct an immigration screening, and additional immigration holds are placed on local arrestees who are unable to show that they are a citizen or have been lawfully admitted to the United States. Arrestees who are not charged by the District Attorney; who are ordered released by the Superior Court; or who have completed their respective sentence and obligation are turned over to ICE pursuant to the immigration hold. Following being turned over to ICE, detainees are housed or detained in a variety of facilities across the country, many of which are correctional style facilities. The LAFO has historically been unable to secure sufficient numbers of beds within its area of operations which includes San Luis Obispo, Santa Barbara, Ventura, San Bernardino, Riverside, Los Angeles, and Orange Counties. As a result of this shortfall and the limited availability of federally operated and owned detention facilities, ICE has relied on Intergovernmental Service Agreements (IGSA) to obtain beds from local and State jurisdictions to house immigration detainees. This IGSA would serve the detention needs of the ICE LAFO.

Currently ICE has 287(g) agreements with 71 law enforcement agencies in 26 states. Since January 2006, the 287(g) program is credited with identifying more than 160,000 potentially removable aliens – mostly at local jails. ICE has trained and certified more than 1,130 state and local officers to enforce immigration law. In November 2006, OCSD entered into an agreement with ICE to perform

certain immigration officer functions as outlined in 287(g)(1) at Orange County jails regarding the investigation, apprehension, and detention of aliens.<sup>1</sup>

#### **EXISTING CONDITIONS AND SETTING**

#### **County Facilities and Operations**

Federal detainees are currently being held in the Orange County jail system. As described above, arrested individuals with undetermined immigration status are housed throughout the entire jail system including the James A. Musick Facility (JAMF) and the Theo Lacy Facility (TLF) until the completion of their criminal sentence. Then, as required by federal law, OCSD notifies ICE that detainees are being held at the Intake and Release Center (IRC) at the Central Jail Facility where the detainees await to be taken into the custody of ICE. These detainees, who would otherwise be released from jail, are held up to a maximum of 48 hours (excluding Saturdays, Sundays and holidays) and turned over to ICE, or ICE directs the jail staff to release the detainee. During the period from January 1, 2010 to June 21, 2010, the Orange County Sheriff Department has transferred custody of 574 detainees to ICE under the 287g and Secure Communities programs.

Currently, the County has 7,041 jail beds system-wide. The current jail population is approximately 4,800 inmates, leaving more than 2,200 empty beds in the County jail system. Therefore, the current request from ICE to house up to 838 detainees (or even 1,400 detainees) can be accommodated without early-releasing County inmates.

TLF is located between The City Drive and the Santa Ana River near the junction of the Garden Grove Freeway (SR-22) and the Santa Ana Freeway (I-5) in the City of Orange among other County buildings known as the Manchester Complex. The address of TLF is 501 The City Drive South. The JAMF site is located at 13502 Musick Road in central Orange County within a 100-acre unincorporated area abutting the Cities of Lake Forest and Irvine. The JAMF site is south and east of the City of Irvine and north and west of the City of Lake Forest. In addition, the JAMF site is bounded by the former MCAS El Toro, now called "The Great Park." The Great Park is entirely within the corporate boundaries of Irvine. The JAMF site lies northwest of Bake Parkway and abuts the planned extension of Alton Parkway, which will form the northwest boundary of the JAMF site.

### **ICE Facilities and Operations**

ICE LAFO, in support of immigration enforcement operations resulting in the detention of aliens who have violated immigration laws, provides funding for detention bed space for aliens who are in removal proceedings or who are awaiting removal from the United States.

Within the LAFO area of operation, ICE has nine (9) facilities that are currently being used for the detention of these detainees. Of these 9 facilities, only two are authorized to hold ICE detainees beyond 72 hours. The remaining seven are used to temporarily house ICE detainees for a period that cannot exceed 72 hours while a housing solution is sought. For facilities housing detainees over 72 hours, a total of 1,600 beds are available.

-

<sup>&</sup>lt;sup>1</sup> ICE Website: http://www.ice.gov/pi/news/factsheets/section287\_g.htm

<sup>&</sup>lt;sup>2</sup> OCSD, July 2010

ICE currently transports aliens to facilities in Lancaster, and Santa Ana, California. While detainees at the Lancaster facility have access to full immigration services, ICE LAFO is required to transport detainees housed in Santa Ana to and from immigration court located at 300 N. Los Angeles Street in Los Angeles.

Once a determination is reached regarding an alien's status, the alien is either removed from the United States or placed into immigration proceedings before an immigration judge. Some detainees may be subject to release under safeguards such as bond, electronic monitoring, or intensive supervision while the remaining detainees are held in detention facilities. Detainee immigration cases are completed when a final decision has been issued by an Immigration Judge, the Board of Immigration Appeals, or the Ninth Circuit Court of Appeals.

ICE LAFO conducts a number of transports daily. Transport requirements include medical or dental appointments, court, interviews, and transfers between facilities; in particular, transfers from a short-term to a long-term housing solution. The numbers of transfers vary daily and are based on the daily population, enforcement activity, and the requirement to locate long term housing solutions in excess of 72 hours. It is anticipated that with an increased population local transportation requirements for medical appointments and emergencies for detainees may increase; however, these are offset by full utilization of buses that currently are not 100 percent utilized for border and court room transports.

Local transport trips (estimated):

Medical 6 to 8 runs daily in vans.Dental Occasional by van

• Emergency Room Approximately 10 to 15 runs per month. By van or by ambulance

• Court Daily Monday through Friday – Bus

The ICE LAFO currently removes aliens through the United States/Mexico International Border and transfers aliens to other areas when beds are unavailable locally. Transport out of the area is via daily bus and van runs to San Diego to meet charter flights from San Diego, California to Phoenix, Arizona and El Paso, Texas. The implementation of an IGSA with Orange County along with other ICE programs in Southern California may help to reduce the number of these charter flights with the intended desire of ending transfer flights in the future.

The LAFO currently conducts between three and four ground transport trips daily to the Border Monday through Friday. Approximately two to three trips a month are made on weekends to accommodate late court removal orders made on Fridays. ICE does not anticipate an increase of these transports as buses will be fully utilized to capacity. Transfers of aliens to other States occur daily Monday through Friday via chartered jets.

In addition to the above, ICE is frequently required to return an alien from out of state to the LAFO by air for immigration proceedings due to family ties and availability of legal representatives that are hired by local family members.

### PROJECT DETAILS

Due to an unprecedented decline in the County jail system inmate population (from about 7,000 inmates in 2007 to about 4,800 inmates currently), a unique opportunity has arisen whereby ICE can contract with the County to use some of the available jail beds for detainee use with minimal expense or construction, and the County can accommodate ICE because there are available jail beds. The proposed agreement would involve both TLF and JAMF facilities. The agreement includes the following improvements at each facility:

### <u>TLF</u>

No new facilities will be constructed at TLF. Certain existing buildings will be remodeled to create office space and to conform to Federal standards. It is anticipated that approximately 472 ICE detainees would be held at TLF under the proposed agreement (approximately 680, if the agreement is increased to 1,400 beds system-wide). Table A outlines the specifics of the proposed facility modifications and other project details at TLF. Table B shows a side-by-side space planning comparison of the existing uses and proposed uses at TLF.

Table A: FACILITY MODIFICATIONS AND OTHER PROJECT DETAILS AT TLF

Alteration Requirements	Minor work in the Inmate Programs Building (IPB), communications building, A-E Barracks, and G Barrack (if housing 1,400 detainees in the future)	<ul> <li>IPB: Relocation and erection of interior walls, cubicles, minor electrical and data cabling</li> <li>Communications: Relocation and erection of interior walls, cubicles, minor electrical, data cabling, fire system and Americans with Disabilities Act (ADA) upgrades</li> <li>A-E Barracks: Partitions, phones</li> <li>G Barrack: Line-of-sight platforms</li> <li>Booking Loop/Records: Cubicles and minor electrical</li> </ul>
New construction	None	
Current Inmate Trips	77/week (est.)	Trips per week:  - Court Buses = 70 (30 a.m. + 40 p.m.)  - State Buses = 2 (a.m.)  - JAMF Releases = 1 (p.m.)  - Jail to Jail Shuttle Buses = 4 (2 a.m. + 2 p.m.)
Existing ICE trips	0	<ul> <li>ICE Hold Inmates share rides with non-ICE Hold inmates on buses that transport to and from TLF.</li> <li>No extra trips or ICE Hold specific trips are required to support ICE Hold Inmates.</li> </ul>
Additional OCSD ICE Staffing	21	OCSD sworn personnel
HCA ICE staffing	*17	* Estimated maximum Health Care Agency staff in a 24-hour period.

ICE staffing	27	
Current facility staffing	544	<ul> <li>OCSD TL staff = 472</li> <li>OCSD Inmate Services staff = 57</li> <li>OCSD R&amp;D staff = 15</li> <li>HCA staff = HCA does not assign personnel to individual facilities</li> </ul>
Current inmate population with active ICE holds	433	As of 6/21/10

Source: OCSD July 2010.

**Table B: TLF Space Planning Comparison** 

Description	Current Use	Proposed Use	
IPB (Inmate Programs Building)	Inmate programs	Inmate programs and ICE office space	
Communications	Communications, training	ICE Administrative staff	
A-E Barracks	Inmate housing	Detainee housing	
G Barrack	Inmate housing	Detainee housing (if housing 1,400 detainees system-wide)	
Mod I	Inmate housing	Inmate and detainee housing (partial occupancy for detainees with special needs)	

Source: OCSD July 2010.

#### **JAMF**

New modular structures will be installed to accommodate three courtrooms, office space for ICE staff, and facilities to accept transferred detainees. In addition, minor interior improvements will be made to the existing barracks buildings to conform to Federal standards. It is anticipated that approximately 366 ICE detainees would be held at JAMF under the proposed agreement (approximately 720 if the agreement is increased to 1,400 detainees system-wide). Table C outlines the specifics of the proposed facility modifications and other project details at JAMF. Table D shows a side-by-side space planning comparison of the existing use and proposed uses at JAMF.

Table C: FACILITY MODIFICATIONS AND OTHER PROJECT DETAILS AT JAMF

Alteration	Modifications in East and	- East, South, and North Compounds: Various restroom
Requirements	South Compounds; and	fixtures/partitions, inmate phone installations.
	North Compound if house	
	up to 1,400 detainees.	
New modular	Administration building,	- Administration: Modular building to support ICE staff
facilities	staff shower/locker	- Shower/Lockers: Modular building to support ICE staff
	building,	- Multipurpose/classroom: Modular building to recreate and
	Multipurpose/classroom	program detainees

	building, Executive Office of Immigration Review (EOIR) building, Office of Principal Legal Advisors (OPLA) building, Processing/dispensary building, Infrastructure	<ul> <li>EOIR: Modular building for Court hearings</li> <li>OPLA: Modular building for ICE legal staff</li> <li>Processing/dispensary: Modular building for detainee receiving, processing, interviews, medical screening, and medical dispensary</li> <li>Infrastructure: Electrical, sewer, water, gas, paving, and telecom requirements</li> </ul>
Current Inmate Trips	41/Week	Trips per week:  - Court Buses = 20  - State Buses = 0  - JAMF Releases = 12  - Jail to Jail Shuttle Buses = 9  Note: 5 busses per week double as Court & Jail to Jail Shuttle
Existing ICE trips	0	No current ICE trips
Additional OCSD ICE Staffing	27	OCSD sworn personnel
HCA ICE staffing	*12	* Estimated maximum Health Care Agency staff in a 24-hr period.
ICE staffing	46	
Current facility staffing	134	<ul> <li>OCSD JAMF staff = 116</li> <li>OCSD Inmate Services staff = 11</li> <li>OCSD R&amp;D staff = 7</li> <li>HCA staff = HCA does not assign personnel to individual facilities</li> </ul>
Current inmate population with active ICE holds	141	Male = 132 + Female = 9 As of 6/21/10

Source: OCSD July 2010.

**Table D: JAMF Space Planning Comparison** 

Description	Current Use	FCDHP Use	
East Compound	Male Inmate housing (vacant)	Detainee housing	
North Compound	Male Inmate housing (vacant)	Detainee housing (if housing 1,400 detainees system-wide)	
South Compound (Mods A&B)	Female Inmate housing	Detainee housing	
New ICE buildings/operations	Vacant area	ICE staff, HCA staff, detainee processing, legal advisers, courts	

Source: OCSD July 2010.

It should be noted that in the event that the inmate population rises, the number of detainees in the jail system can be reduced accordingly to accommodate County inmates. County inmates would have

priority because the primary purpose of Orange County jails is to house inmates pursuant to state law and court orders pending court disposition (trial or sentencing) or serving out shorter sentences (usually one year or less).

### PROJECT EFFICIENCIES AND SAVINGS

The proposed arrangement between the County and ICE would result in efficiencies and savings in staffing and transportation. These include:

### For the County

- The increase in revenue will partially offset reductions in funding for the Sheriff's Department and Health Care Agency.
- Funding will avoid closing portions of jail facilities and reducing core public safety and health care services.
- Funding will allow retention of trained personnel who are able to perform day-to-day activities and also will be available for mutual aid responses to emergencies.
- The agreement will infuse \$30 mil to \$35 mil per year into the Orange County economy.

The County currently generates 77 and 41 round trips per day at TLF and JAMF, respectively. No extra trips or ICE Hold specific trips are required to support ICE Hold Inmates or ICE Detainees because they share rides with non-ICE inmates on buses that transport to and from TLF on a regular basis. Therefore, there would be no additional burden to the internal jail transportation network for the County. Based on historical visitor data and comparable visitor data at other facilities with ICE detainees, ICE detainees generate fewer trips for visitation than is typical for a jail inmate. Therefore, an increase in visitor trips associated with ICE detainees is not expected.

#### For ICE

- Fewer trips shuttling detainees due to:
  - On-site courts/hearings
  - o Quicker processing/shorter stays within the ICE program
  - Better access to medical / mental health programs
- Increase in ICE staff availability to perform enforcement related duties.
- Reduction in requirements to transfer detainees out of the LAFO via bus and plane.
- Increased access to family ties and legal programs within the area of detention.
- Decreased litigation regarding transfers of detainees outside of the local area of jurisdiction.
- Decreased requirements by the immigration courts to return aliens to Los Angeles due to legal representation or family ties in the area.

Table E below, shows the ICE weekly transportation operations before and after the project along with the net difference in trips in Southern California. The majority of the transportation fleet for ICE is buses.

Table E: Before and After Project Trip Comparison

Table 12. Delote and Arter Project 111p Comparison					
	Number				
	Of Trips	Number Of		One-way	Weekly
	Without	Trips With	Net	Trip	Mileage
	Project	Project	Difference	Mileage <sup>2</sup>	Savings
VEHICLE TRIPS <sup>1</sup>					
LA Court to/from Santa Ana	10	4	-6	34	-204
Lancaster to/from Santa Ana	0	10	+10	106	1060
Lancaster to/from LAFO	20	10	-10	74	-740
LAFO to/from Orange County	10	0	-10	30	200
for ICE pick ups					-300
LAFO to/from Santa Ana	20	10	-10	32	-320
San Diego Airport to/from	10	10	0	121	0
LAFO					0
Others	0	0	0	0	-504
TOTAL NET DIFFERENCE	80	54	-26		
Annual Mileage Savings <sup>3</sup>					-25,200

Source: ICE LAFO, July 13, 2010.

Based on the trip information for the current County and ICE operations in comparison to the operations under the proposed project, there is a net reduction in travel of 25,200 annual miles and corresponding travel times due to built in efficiencies including an increase in available beds for ICE use and the co-location of holding facilities and courtrooms to reduce inter-facility travel for ICE. This overall trip reduction would occur with the project regardless of the purveyor (i.e., outside contractor or OCSD) of the transportation services.

#### ENVIRONMENTAL COMPLIANCE

Because the project will require an action from the County to enter into an Agreement with ICE, compliance with the California Environmental Quality Act (CEQA) will be required. In addition, a federal action will also be required to enter into the agreement with a federal agency, which is ICE. This federal action will require compliance with the National Environmental Policy Act (NEPA). A detailed discussion of the compliance with these two environmental laws is included below.

#### **CEQA Compliance**

The County has previously approved build-out plans for both TLF and JAMF which were the subject of Environmental Impact Reports (EIRs) pursuant to CEQA. EIR 558 was certified on June 20, 2000 for TLF, and EIR 564 was certified on October 20, 1998 for JAMF.

**TLF** 

Vehicle Trips are one-way trips, vehicle types are buses.

<sup>&</sup>lt;sup>2</sup> Calculated based on MapQuest.com direction information.

Based on 50-weeks.

The Theo Lacy Branch Jail Buildout and Operation project was designed to be built out to a capacity of 2,986 inmates with certain exceptions. EIR 558 analyzed the impacts associated with the expansion plans to allow the buildout of TLF. The site plan comprised three main octagonal structures and upgrades to the support facilities such as: classrooms, inmate programs, medical administration, parking, etc. EIR 558 was legally challenged by the City of Orange (Orange), but the County and Orange were able to agree to the terms of the buildout and the suit was dropped. Instead, the County of Orange also entered a settlement agreement with the City of Orange regarding the Theo Lacy buildout which formalized arrangements for funding and/or construction of certain improvements. The essence of the Stipulation and Judgment filed July 21, 1995 (hereinafter "Settlement Agreement"), is that Orange agreed to forego its challenges to EIR 558 in exchange for the County agreeing to forego any future expansion of the jail beyond the final project as stated in EIR 558 and as recognized in the Settlement Agreement. The limitations recognized in this Settlement Agreement were the inmate population limitations of 1,909 rated beds or an actual population of 2,986 inmates excepting medical beds (125) and an additional 396 inmates housed during emergency or unusual circumstances as described in the document, as well as a limitation of 1,152 maximum security inmates. Orange recently sent a letter stating its position that housing ICE detainees in TLF violates the Settlement Agreement. This surprised the County, since federal prisoners pursuant to a 1983 agreement with the U.S. Marshals office and ICE holds have made up a part of the County jail population for at least 27 years. However, because both the agreement and state law recognize that the Sheriff has sole authority over the types of inmates to be housed in the County jails, and the numerical limitations of the agreement will not be violated, and because the environmental impacts evaluated in the EIR are based on a number of inmates that will exceed the number of ICE detainees, as well as for various other reasons, the housing of ICE Detainees will not alter what was analyzed in the EIR and agreed to in the Stipulation and Judgment, and neither the agreement nor CEQA are violated by this proposed action. One of the major concerns of the City has been release of inmates in the City of Orange at the TLF. This agreement will significantly reduce the number of persons held in the jail being released in Orange, as no ICE detainees will be released in Orange at TLF. Should Orange decide to bring a legal challenge to this action, the various court decisions and stipulations concerning the jails, as well as various pleadings, County documents and memoranda of understanding will be part of the administrative record, as they have been considered in the environmental analysis of this proposed project.

Currently, TLF has a capacity for 2,986 inmates, exclusive of the 125 medical beds. The three main octagonal buildings have been completed as well as other improvements on site including parking areas and other improvements. Minor addendums to EIR 558 have been approved since certification of the EIR concerning building height and size, parking arrangements, and a variety of other minor changes to the master site plan for the facility.

Because EIR 558 analyzed a maximum capacity of 2,986 exclusive of the 125 medical beds and an additional 396 inmates during emergencies, and some of the inmates were assumed to be ICE detainees based on the way they are currently processed, there is no substantial change to the capacity or type of inmate that is being held at TLF that could possibly have any significant effect on the environment. In addition, only interior improvements to existing facilities at TLF would be involved to accommodate the agreement. Therefore, whether or not the requirements of the agreement were covered in the EIR 558 is irrelevant because no physical changes to the environment would occur as a result of the inclusion of the agreement on the TLF site because:

<sup>&</sup>lt;sup>1</sup> California Government Code 26605.

- (1) there are already ICE detainees at TLF, therefore it is an existing condition,
- (2) the agreement will be accommodated at TLF without exceeding the approved capacity in the Settlement Agreement,
- (3) only interior improvements to existing buildings would occur, which are generally not subject to CEQA review unless there is a change in land use, which there is clearly not in this case because of the existing presence of ICE detainees in the County's jail system and at TLF.

In addition, CEQA Section 21166 requires that when an EIR has been prepared, no subsequent or supplemental EIR shall be required by the lead agency unless:

- (a) Substantial changes are proposed in the project that requires major revisions of the EIR.
- (b) Substantial changes occur to the circumstances under which the project is undertaken that require major revisions in the EIR
- (c) New information not know at the time of the EIR becomes available.

The proposed agreement results in none of the circumstances described in CEQA Section 21166, and the scope of the proposed agreement fits well within the originally anticipated activities at TLF.

#### **JAMF**

On November 5, 1996, the Orange County Board of Supervisors approved the expansion of the JAMF. The 1996 Master Site Plan allowed the expansion of the facility from approximately 1,200 beds to 7,584 beds for a full range of inmate classifications (i.e., minimum-, medium-, and maximum-security inmates). The approved site plan comprised a series of building complexes. The jail facilities included three major housing complexes and a support services complex. Shortly after the approval of the 1996 Master Site Plan and certification of EIR 564, the EIR was legally challenged by the Cities of Irvine and Lake Forest. The EIR certification was overturned in the trial court. In 2000, the trial court decision was reversed on appeal. In 2001, the State Supreme Court declined to consider hearing the case. Therefore, EIR 564 remains intact as the Appellate Court originally held.

Currently, JAMF has a capacity for 1,256 inmates. The County is developing plans to update and enhance the site plan for the buildout of the JAMF, but these have not been completed yet. The County continues to operate JAMF and has implemented only minor improvements to the facility in anticipation of the master plan improvements. The County continues to discuss the JAMF improvement plans with the cities of Lake Forest and Irvine.

Because EIR 564 analyzed a maximum capacity of 7,584 and some of the inmates were assumed to be ICE detainees based on the way they are currently processed, there is not only little change to the capacity or type of inmate that is being held at JAMF, but the EIR anticipated a buildout capacity of more than five times the capacity of the current capacity at JAMF. Minor improvements to accommodate the agreement would be required including the use of several modular buildings to provide office space, medical treatment space and court rooms. It should be noted that EIR 564 showed that the expansion to hold 7,584 inmates at JAMF resulted in no unavoidable adverse impacts.

These additions on their face have no impact on the project site, or potential to increase or magnify any of the impacts identified in EIR 564. Further, the application of CEQA Section 21166 yields the

same result as TLF in that the proposed agreement results in none of the circumstances described in CEQA Section 21166 and that the scope of the proposed agreement fits well within the originally anticipated activities at JAMF as well.

Lastly, because operations under the proposed agreement result in a net reduction in vehicular travel, vehicular emissions will also be reduced accordingly including greenhouse gases (GHGs). The most notable reduction in GHGs would be in the carbon dioxide  $CO_2$  emissions, a byproduct of the use of internal combustion engines. According to Climate Action Program that was published in December 2006<sup>1</sup>, the highest levels of  $CO_2$  from mobile sources, such as automobiles, occur at stop-and-go speeds (0–25 mph) and speeds over 55 mph; the most severe emissions occur from 0 to 25 mph. Therefore, a reduction in overall trips on the transportation system in Southern California (as shown in Table E) would accordingly reduce or at least not contribute to the generation of additional GHGs. Therefore, operations under the proposed agreement would not contribute to GHGs.

### National Environmental Policy Act (NEPA) Compliance

Management Directive for Environmental Planning which replaced MD 5100.1

The Department of Homeland Security has adopted NEPA compliance regulations through Management Directive MD-023-01, Environmental Planning Program (EPP) which was adopted April 14, 2006. The EPP establishes a framework for the balanced and systematic consideration of environmental stewardship in the planning and execution of the Department's missions: to lead the unified national effort to secure America; to prevent and deter terrorist attacks; and to protect against and respond to threats and hazards to the nation. The draft procedures assign responsibilities and procedures, tailored to the Department's needs, for performing environmental impact analyses appropriate to different types of activities in these missions.

The requirements in the Management Directive place particular emphasis on the role of the project proponent to ensure that environmental stewardship requirements are appropriately integrated into the performance of the Homeland Security mission. In particular, there are special considerations for intergovernmental coordination, public involvement, dispute resolution, handling of sensitive information, and emergency procedures in Department decision making.

According to EPP, the proposed project fits well within a Categorical Exclusion (CATEX) from NEPA by meeting the requirements of *Construction, Installation, and Demolition Activities, Section E2*, which states the following:

New construction upon or improvement of land where all of the following conditions are met:

- (a) The structure and proposed use are compatible with applicable Federal, tribal, state, and local planning and zoning standards and consistent with federally-approved state coastal management programs,
- (b) The site is in a developed area and/or a previously-disturbed site,
- (c) The proposed use will not substantially increase the number of motor vehicles at the facility or in the area,

\_

http://www.dot.ca.gov/docs/ClimateReport.pdf.

- (d) The site and scale of construction or improvement are consistent with those of existing, adjacent, or nearby buildings, and,
- (e) The construction or improvement will not result in uses that exceed existing support infrastructure capacities (roads, sewer, water, parking, etc.).

These all apply for the implementation of the proposed project, thus the project is Categorically Excluded under NEPA. The County is in coordination with ICE on the NEPA CATEX and will be processing it concurrently with the approval of the IGSA Agreement.